

Christopher L. Perkins (VSB No. 41783)
LeClairRyan, A Professional Corporation
Riverfront Plaza, East Tower
951 East Byrd Street
Richmond, Virginia 23219
804-783-7550

and

Heather A. Lee
Burr & Forman LLP
420 North 20th Street, Suite 3400
Birmingham, Alabama 35203
205-458-5170

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

In re:) Chapter 11
)
CIRCUIT CITY STORES, INC., <u>et al.</u>,) Case No. 08-35653-KRH
)
Debtors.) (Jointly Administered)

**CP NORD DU LAC JV, LLC'S RESPONSE TO DEBTORS' NOTICE OF
LIQUIDATING TRUST'S NINTH OMNIBUS OBJECTION TO LANDLORD CLAIMS
(REDUCTION OF CERTAIN PARTIALLY INVALID CLAIMS, RECLASSIFICATION
OF CERTAIN MISCLASSIFIED CLAIMS, DISALLOWANCE OF CERTAIN INVALID
CLAIMS, DISALLOWANCE OF CERTAIN LATE FILED CLAIMS, AND
DISALLOWANCE OF CERTAIN AMENDED CLAIMS)**

COMES NOW CP Nord du Lac JV, LLC (the "Landlord") and for its response to
the *Debtors' Notice of Liquidating Trust's Ninth Omnibus Objection to Landlord Claims
(Reduction Of Certain Partially Invalid Claims, Reclassification Of Certain Misclassified
Claims, Disallowance Of Certain Invalid Claims, Disallowance Of Certain Late Filed Claims,
And Disallowance Of Certain Amended Claims)* (the "**Objection**") filed by the liquidating

trustee (the “**Trustee**”) on behalf of Circuit City Stores, Inc., et al. (the “**Debtors**”), states as follows:

1. The proof of claim bar date for this bankruptcy case was January 30, 2009 (the “**Bar Deadline**”).

2. On January 29, 2009, Landlord had its proof of claim (the “**Proof of Claim**”) sent out via overnight courier for filing on the Bar Deadline. Landlord learned on January 30, 2009 that the overnight courier package containing the Proof of Claim would not be delivered on January 30, 2009 due to weather issues. Accordingly, Landlord contacted various courier services to arrange for the Proof of Claim to be filed by hand delivery prior to the Bar Deadline. Two courier services agreed to attempt to file the Proof of Claim by hand delivery, but neither could guaranty timely filing.

3. In the end, both courier services were successful in filing the Proof of Claim prior to the Bar Deadline. The overnight courier package containing the Proof of Claim was delivered on February 2, 2009 and therefore filed after the Bar Deadline. Accordingly, Landlord filed three duplicates of the Proof of Claim, two which were timely filed (claim numbers 9641 and 9964) and one which was not (claim number 11270, and together with 9641 and 9964, the “**Claims**”). Claims 9964 and 11270 were previously disallowed as duplicate claims and expunged by the Court. A copy of Claims 9641 and 11270 are attached hereto as Exhibits A and B, respectively.

4. In the Objection, the Trustee states that Claim 9641 is due to be expunged because the debt is not shown on the Debtors’ books and records and because it is a late-filed claim. Claim 9641 was received by the claims agency on January 30, 2009, as shown on the

attached Exhibit A and therefore is timely filed. Further, the Landlord has rebutted the Objection by the Proof of Claim and supporting documents, and the burden of proof is now on the Trustee to establish that the Objection should be sustained.

5. Landlord has made efforts to resolve this matter with the Trustee's counsel over the past several weeks, but counsel has been non-responsive and has not provided any further information or documents supporting the Objection as it relates to Landlord.

WHEREFORE, for all of the foregoing reasons, Landlord requests this Court enter an order overruling the Objection and granting such other and further relief as this Court deems just and appropriate.

Richmond, Virginia
Dated: June 2, 2011

/s/ Christopher L. Perkins
Christopher L. Perkins (VSB No. 41783)
LeClairRyan, A Professional Corporation
Riverfront Plaza, East Tower
951 East Byrd Street
Richmond, Virginia 23219
804-783-7550

and

Heather A. Lee
Burr & Forman LLP
420 North 20th Street, Suite 3400
Birmingham, Alabama 35203
205-458-5170

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing document by Notice of Electronic Filing, or, if the party served does not participate in Notice of Electronic Filing, by U.S. First Class Mail, hand delivery, fax or email on this the 2nd day of June, 2011.

Jeffrey N. Pomerantz
Andrew W. Caine
Pachulski Stang Ziehl & Jones LLP
10100 Santa Monica Boulevard
Los Angeles, California 90067-4100
Counsel for the Liquidating Trustee

Lynn L. Tavenner
Paula S. Beran
Tavenner & Beran, PLC
20 North Eighth Street, Second Floor
Richmond, Virginia 23219
Counsel for the Liquidating Trustee

/s/ Christopher L. Perkins
Counsel